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Statement of the President on the work of the Assembly during the first part of the second session

1. The first part of the second session of the Assembly of the International Seabed Authority was held at Kingston, Jamaica, from 11 to 22 March 1996.

2. At the opening meeting (the 25th meeting of the Plenary), I reported on inter-sessional consultations I had undertaken in New York in December 1995 and March 1996 with the Chairmen of the regional groups and other interested groups on outstanding issues relating to the composition of the Council.

3. In reporting on those inter-sessional consultations, I reiterated the urgency of the issue concerning the composition of the Council and said that it would not augur well for the Authority and the Assembly to continue to delay taking a decision on the formation of the Council. At that time I reminded the Assembly of the three primary and important issues facing it, namely the composition and election of the Council, the election of the Secretary-General of the Authority and the establishment of the Finance Committee. It was decided that priority would be given to the issues relating to the Council and to the Secretary-General.

Election of the members of the Council

4. Following my suggestion, and with the approval of the Assembly, the major part of the first week of this part of the second session was devoted to intensive consultations within and among regional groups and other groups of special interest that make up the five groups represented on the Council, namely Groups A, B, C, D and E.

5. At the 26th meeting of the Plenary, I reported that though progress was being made in the consultations, more time was needed for the groups to arrive at a final list of candidates. At that time, though substantial progress had

been made within each group, the major impediment to the composition of the Council was the need to reach equitable geographical representation, while ensuring that all the special interests were also represented.

6. Progress towards the formation of the Council was confirmed at the 28th meeting of the Plenary when I informed the Assembly that final agreement had been reached in Groups A, B and C.

7. At the 29th meeting of the Plenary, reports were made on the progress achieved in the Asian Group, the African Group, and the Western European and Others Group. I once again reminded the Assembly at that time of the difficult issue bearing on the rotation of one seat on the Council among the various regional groups to ensure equitable geographical representation.

8. Following intensive and protracted consultations within and among the regional groups, and consultations I held with the Chairmen of the regional groups and representatives of special interests, I was able at the 30th meeting of the Plenary to announce final agreement among all groups, by which the composition of the Council was confirmed at that time at least for the first year of the Council's term. The composition of the Council, and particularly a somewhat complex system of rotation and duration of terms, is contained in document ISBA/A/L.8 and Corr.1.

9. At the above-mentioned meeting, the Assembly endorsed the final agreement and elected the members of the Council as outlined in that agreement. A number of views were expressed at that time concerning the composition of the Council, the representation of groups and future elections. At the request of those delegations, those statements are reflected in the annexes to the present report (annexes I-VII).

Composition of the Council

10. The final agreement reached by the Assembly on the composition of the Council confirmed the following membership at least for the first year of the Council's term:

(a) Group A - to be represented by the United States of America, the Russian Federation, Japan and the United Kingdom of Great Britain and Northern Ireland;

(b) Group B - to be represented by France, China, India and Germany;

(c) Group C - to be represented by Australia, Chile, Indonesia and Zambia;

(d) Group D - to be represented by Oman, Bangladesh, Brazil, Trinidad and Tobago, Cameroon and Nigeria;

(e) Group E - to be represented by the Republic of Korea, the Philippines, Malaysia, Poland, Ukraine, Austria, the Netherlands, Italy, Egypt, Sudan, South Africa, Senegal, Tunisia, Kenya, Namibia, Argentina, Paraguay and Cuba.

11. In addition to the above membership of the Council, the Assembly agreed that each regional group which relinquishes a seat to ensure the effective functioning of the system of rotation would be represented by one member participating in the work and deliberations of the Council for the duration of the period during which the seat is relinquished. That member, however, will not have the right to vote.

Election of the Secretary-General of the Authority

12. At the first meeting of this part of the second session, I had reiterated that, aside from the composition and election of the Council, the second priority issue facing the Assembly was the election of the Secretary-General of the Authority. Accordingly, at the first meeting of the Council, I recommended, and the Council agreed, that I act as President Pro Tem and that I undertake immediate consultations on the issue, a matter which the Council recognized as its first major undertaking.

13. Following intensive consultations with the four candidates (Satya Nandan (Fiji), Luis Paez Preval (Cuba), Kenneth Rattray (Jamaica) and Joseph Warioba (United Republic of Tanzania)) and with a large number of individual delegations, I reported to the Council that there was widespread support for electing the Secretary-General at the end of the first part of this session by consensus. However, since the candidates continued to maintain their candidatures, I proposed that an informal meeting of all delegations be convened for the purpose of holding a secret indicative vote to determine the degree of support for each candidate. I had intended to convey the results of such a vote to each candidate individually and confidentially.

14. With this knowledge, I hoped that each candidate would have been in a position to assess whether to continue to be a candidate or withdraw from consideration for election. An extensive discussion on my proposal was held in the Council, which finally agreed that such a procedure should be followed.

15. During the informal meeting convened on 21 March 1996, two candidates, namely Mr. Rattray and Mr. Paez Preval, withdrew from consideration since they did not wish to subject their candidatures to the indicative vote procedure and also in order to expedite the selection of candidates to contest the election. The withdrawal of the two candidates created a new situation and the informal meeting decided that I report this new development to the Council and seek its guidance.

16. Following my report to the Council and interventions by several delegations, the Council decided to propose a list of candidates to the Assembly containing the names of the two remaining candidates.

17. In the informal meeting of all delegations, it was decided to hold an indicative vote involving the two candidates. Following the vote, the two candidates agreed to recommend to the Assembly the election of Mr. Nandan by consensus. The Assembly then elected Mr. Nandan by acclamation.

Discussion on the establishment of the Finance Committee

18. At the 29th meeting of the Plenary, chaired by the Vice President, Ambassador Jose-Luis Vallarta (Mexico), several views were expressed in favour of the early election of the Finance Committee and in support of a proposal that a deadline be established during this session for delegations to propose nominees. Other delegations expressed the view that the deadline was impracticable and that the issue of the election of the Committee was not a priority for this part of the second session. However, a number of delegations expressed a different view that there was a need to establish the Committee prior to the second part of the second session of the Assembly, at which time the Secretary-General of the Authority will introduce his budget, which would have to be reviewed by the Committee.

19. Since no time was available to continue the discussion of this issue during this session, the establishment of the Finance Committee will be dealt with in the August meeting of the Assembly. To date, several nominations have been submitted and it is expected that additional nominations will be received before the next meeting.

Election of a President of the Assembly

20. At the first meeting of this part of the second session, the Bureau suggested, and the Assembly agreed, that I continue to preside over the work of the Assembly until the Council is constituted and the Secretary-General is elected. Subsequently, the issue of electing a new President for the second session of the Assembly was once again discussed in the Plenary. At that time, a view was expressed that I continue as President, until the election of a new President, for the duration of this part of the session. Consequently, a new President will be elected at the beginning of the second part of the second session.

Transitional administrative and budgetary arrangements for the Authority

21. The Assembly will recall that at its last meeting it adopted a decision to request the Secretary-General of the United Nations to submit to the General Assembly at its fiftieth session, on behalf of the Authority, a draft budget covering the administrative expenses of the Authority for 1996. Such a draft budget was submitted and the General Assembly approved a budget of the Authority for 1996 amounting $1,308,200.00.

22. The Assembly will further recall that in the same decision of the General Assembly, it authorized the Secretary-General of the United Nations to administer the interim secretariat of the Authority until the entry on duty of the Secretary-General of the Authority. Practical and organizational considerations dictate that the Secretary-General of the Authority would require some time before he is able to assume effectively the responsibilities of the secretariat of the Authority, a fact that was noted by the General Assembly in its resolution 50/23 of 5 December 1995.

23. I would urge the Assembly to take into account these practical and organizational considerations, and consequently recommend that the Assembly authorize the Secretary-General of the United Nations to continue to administer the interim secretariat until such time as the Secretary-General of the Authority is able to assume effectively the responsibility of the Authority's secretariat. The Secretary-General of the Authority shall, as soon as possible, inform the Secretary-General of the United Nations of the date upon which he will be able to assume effectively such responsibility. Until such date, the interim secretariat shall continue to perform its tasks under the authority of the Secretary-General of the United Nations. I take it that the Assembly approves of these recommendations and it is so decided.

Report of the Credentials Committee

24. During the first part of the second session, the Assembly re-elected the nine member States of the Credentials Committee to serve during the second session. The Committee held three meetings. After examining the credentials of delegations, the Credentials Committee presented its report (ISBA/A/8 and Add.1).

Other matters

25. Upon receiving a request from the International Ocean Institute (IOI) that it be accorded observer status under rule 82 (1) (e) of its rules of procedure, I brought this matter to the attention of the Assembly, which approved the request that IOI attend meetings of the Authority as a non-governmental observer.

Future meetings

26. The Assembly and the Council of the International Seabed Authority will meet from 5 to 16 August 1996 at Kingston, Jamaica. Among the issues still pending and which would require urgent attention are the election of the Finance Committee, the election of the next President of the Assembly, the adoption of the rules of procedure of the Council and the election of the Chairman of the Council.

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27. Since this meeting brings to an end this part of the second session of the Assembly, I should like to take the opportunity to express my sincere gratitude especially to the Vice-Presidents of the Assembly, the Chairmen of the regional groups, the coordinators of the interested groups and all delegations that have participated in the meetings of the Assembly and the Council of the International Seabed Authority. I should also like to thank all the members of the Secretariat who have facilitated our work and also the Jamaican Defence Forces for the assistance that they have rendered to me personally.

28. Finally, I should be grateful if the Jamaican delegation would transmit my deep appreciation and that of all members of the Assembly to the Government and people of Jamaica for their very kind hospitality.

ANNEX I

Statement by members of Group B

The members of the group of the eight largest investors (Group B) agreed on the following:

- For the nomination of the candidates of the Group for election to the Council, the principle of rotation shall be applied to all members of the Group on an equal basis;

- The investors shall consult regularly on the matters which are dealt with in the Council so that the four States representing Group B in the Council can take into account the position of the other investors;

- For the first election the Group has nominated the following four States, namely, China, France, Germany, and India. China and France have been nominated for a four-year term and India and Germany for a two-year term;

- India will not seek re-election in 1998. Therefore, India shall be renominated by the Group as a candidate for the election to the Council to be held in 2000 for a four-year term;

- Germany shall be renominated by the Group as a candidate for the election to the Council to be held in 1998 for a four-year term;

- The Netherlands, which withdrew its candidature for the first election, shall be nominated by the Group as a candidate for the election to the Council to be held in 1998 for a four-year term.

ANNEX II

Statement by the Republic of Korea on the composition of Group B

In the first place, my delegation would like to join other delegations in praising you for your strenuous efforts and congratulating you on the good results we have attained.

With regard to your statement on the composition of the Council members, with particular attention directed to Group B, the delegation of the Republic of Korea would like to make its position clear that the eligibility of a State should be determined on the basis of its qualification at that time of the election.

As the present Assembly has to select the members of the Council which will serve for the next two years or four years, my delegation would like to state that any decision or understanding by the current members belonging to a specific group beyond this mandate will not bind the future eligible members for such groups. In other words, the question of a State which is presently not a member of Group B, but would fit into the system by 1998 or 2000 or any subsequent year as one of the eight largest investors, should be dealt with where it really occurs, on the basis of the legal situation and on the principle of rotation of all members of Group B on an equal basis.

My delegation therefore, together with the like-minded delegations, would like to go along with the relevant part of the President's statement with this understanding in mind, and would like to have this position reflected in the statement of the President as such. My delegation would also like to state that it reserves the right to reopen this case as the occasion arises.

ANNEX III

Statement by Japan on the composition of Group B

1. At the elections of the Council in 1998 and 2000, the members of Group B should make the nomination from the eight largest investors as stipulated in the provisions of the Implementing Agreement.

2. In regard to the election of the Council in 1998, Japan is prepared to refrain from raising any objection to the arrangement proposed by the coordinator of Group B on the condition that the understanding stated in paragraph 1 above is accepted.

3. Japan cannot commit itself to any decision at this stage with respect to the election of the Council in 2000 for the following reasons:

(a) The qualification for nomination from Group B is stipulated in the provisions in the Implementing Agreement that only the eight largest investors at the time of the election of the Assembly will be eligible. It is not possible to predetermine which countries the eight largest investors will be in 2000;

(b) Provisional Application of the Implementing Agreement (article 7) and the mechanism for provisional membership (section 1 (15) of the annex) both cease to be applicable at the latest on 16 November 1998.

4. Japan reserves its right to stand for nomination from Group B at the election of the Council in 2000.

ANNEX IV

Text of Agreement reached in the Western European and Others Group

In accordance with relevant provisions of rotation, the Western European and Others Group noted that its members which qualify only in Group E have interests and should be adequately represented in the Council in that Group.

ANNEX V

Statement by Belize

At an appropriate time, probably at the next session of the Assembly, the delegation of Belize wishes to give notice that it will request the Assembly to make a decision about the interpretation of section 3, paragraph 15 (d), of the Agreement on the Implementation of Part XI of the Convention.

Belize believes that the low-lying coastal States which are members of the Alliance of Small Island States and participated as such in the Barbados Conference on the Sustainable Development of Small Island Developing States should be included in the list of "island States" in paragraph 15 (d). This delegation believes that those States include Guinea-Bissau, Guyana and Belize.

In this connection, the delegation of Belize wishes to stress that:

(a) Many of the problems of the low-lying coastal States are essentially identical to those of the island States and they are so treated in the Declaration of Barbados and the Programme of Action for the Sustainable Development of Small Island Developing States;

(b) The States mentioned by name in this statement fully participated as island States in all of the major recent conferences subsequent to the United Nations Conference on Environment and Development (UNCED). They actively so participated in the work of the United Nations General Assembly and the conferences of the parties and other institutional activities of the Conventions on Biodiversity and Climate Change;

(c) A substantial portion of Belize's municipalities are located offshore on islands;

(d) The list of special interests in paragraph 15 (d) is not exclusive but inclusive, indicative and flexible.

The delegation of Belize respectfully requests that this statement be in the record of these proceedings.

ANNEX VI

Statement of the Eastern European Group

The Eastern European Group is not in the position to accept its participation in the "floating seat" system as it has been recently proposed.

In the opinion of our Group this system does not remain in conformity with the Understanding achieved in 1994, together with the Agreement on implementation (A/48/950). That Understanding is now especially applicable to the Eastern European Group since:

(a) We fulfil the conditions of substantial similarity to the membership in the United Nations; and

(b) As a result of application of the "floating seat" system, we would go below the limit of three seats in the Council provided by the said Understanding.

Practical applicability of the 1994 Understanding to the Eastern European Group extends at least up to 2000. In that year the first election will take place after ending the provisional membership system. Then there will be a proper time for reconsideration if the said Understanding is going to be applied to any one of the regional groups.

In connection with that, the Eastern European Group is of the opinion that the question of rotation for the period 1996-2000 should be considered now exclusively between the remaining four regional groups, either on a two- or even on a one-year term basis.

Since it is now impossible to presume or to predict if in 2000 the 1994 Understanding is going to be applied or not to the Eastern European Group, we cannot accept any decision to be undertaken now on considering future inclusion of the Eastern European Group in the "floating seat" system after 2000. It may be done exclusively together with the election taking place in 2000. Then it will be possible to reconsider once again if the conditions provided by the 1994 Understanding are fulfilled by any regional group.

The Eastern European Group would like to stress once again its willingness to establish the Council as soon as possible. However, this has to be done now, as well as in the future elections, in accordance with the existing agreements, rules and understandings.

ANNEX VII

Statement by the Philippines

We have followed the long and arduous process of reaching a consensus on the seat arrangement in the Council and the election by acclamation of the Secretary-General. The Philippines congratulates Ambassador Satya Nandan as Secretary-General and we assure him of our support to ensure the successful operation of the Authority.

The Philippines strongly supports the rotation in the various interest groups in Group D and in other categories, where applicable. We note the last paragraph on page 2 in document ISBA/A/L.8, entitled "Composition of the First Council of the International Seabed Authority", which states that "the representation of interests distributed among regional groups in Group D at this election shall be without prejudice to the reallocation of those interests in the future elections".

The general principle of sharing and of fair and equal opportunities for qualified State candidates must be one of the major bases of our interaction in the Assembly. A genuine application of these virtues would give meaning to the principle that "the area of the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States".

As one of its functions, the Council, as the executive organ of the Authority, shall exercise control over activities in the area in accordance with article 153, paragraph 4, of the Convention, and the rules, regulations and procedures of the Authority. With such an enormous responsibility, my delegation wishes to see that the Council considers the interests of developing island States or archipelagoes near or facing the exploration/exploitation area for deep seabed mining in the Pacific Ocean. Of course, the State representatives for island States in Group D shall promote the interests of the group in the Council. For this reason, my delegation wishes to initiate the formation of an Ad Hoc Consultative Group of Developing Island States in the Council of the Authority as a forum in the Council to ventilate the interests of developing island States related to deep seabed mining and to guide the island States' representatives in Group D. This Consultative Group could also emphasize rotating its seat in Group D among all developing island States.

My delegation would appreciate the support of developing island States on the formation of this Ad Hoc Consultative Group. We would appreciate the assistance of the President in requesting the Secretariat to reflect this statement in the records of this meeting. It seems that circumstances would not allow the intended meeting of the Consultative Group at this venue at present because of travel commitments of concerned delegations. However, my delegation shall undertake the necessary arrangements for such a meeting before or during the first week of the session of the Assembly in August.